

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 229

Introduced by Senator Figueroa

February 15, 2005

An act to amend ~~Section 8520~~ of Sections 25, 2909, 2911, 2912, 2914, 2920, 2933, 2936, 2942, 2946, 2983, 2987, 2988, 4990.1, 4990.8, 8000, 8005, 8010, 8025, 8030.4, 8030.6, 8030.8, 8520, 8528, and 22353.2 of, and to repeal Section 2945 of, the Business and Professions Code, and to amend Section 19167 of the Revenue and Taxation Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 229, as amended, Figueroa. ~~Structural Pest Control Board.~~ Professions and vocations.

(1) Existing law provides for the Board of Psychology to license and regulate psychologists. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, 2011, and January 1, 2012, respectively.

(2) Existing law specifies the requirements for licensing as a psychologist, including educational and training requirements. Existing law exempts from licensing persons who meet certain criteria and who register with the board for up to 2 years from the date of registration. Existing law provides for the Board of Psychology to examine applicants by written or oral examination.

This bill would provide that those exempt persons shall be identified as "registered psychologists" and would extend the period of the exemption to up to 30 months. The bill would also delete the authorization for an oral examination, and would instead provide for

a computer-assisted examination. The bill would make various other revisions to these and other related provisions.

(3) Existing law imposes various fees on applicants for licensure by the Board of Psychology and on licensees. Existing law provides that a licensee in ill health or absent from the state may apply for inactive status at a reduced rate.

This bill would also authorize a licensee in retirement to be placed on inactive status.

(4) Existing law authorizes a psychologist licensed by another state or foreign country to practice in this state for up to 30 days in a calendar year.

This bill would limit that authorization to a psychologist at the doctoral level licensed by another state or Canada.

(5) Existing law provides for the Board of Behavioral Sciences to license and regulate clinical social workers. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, 2011, and January 1, 2012, respectively.

(6) Existing law provides for the Court Reporters Board of California to license and regulate certified shorthand reporters. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, 2011, and January 1, 2012, respectively.

(7) Existing law prohibits the disclosure of certain information regarding complaints relative to a licensee of the Court Reporters Board of California unless an accusation has been filed. These provisions do not apply to citations, fines, or orders of abatement, which may be disclosed to the public.

This bill would allow letters of reprimand relative to a licensee to also be disclosed to the public.

(8) Existing law provides for licensing and regulation of structural pest control operators by the Structural Pest Control Board. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, 2011, and January 1, 2012, respectively.

(9) Existing law requires a tax preparer, as defined, to register with the California Tax Education Council. Existing law requires the Franchise Tax Board to notify the council when the board identifies a tax preparer that has not registered as required, and authorizes the board to cite individuals for these violations, levy a fine of up to \$5,000 against the individual, or issue a cease and desist order against the individual until he or she has registered as required. Existing law authorizes the imposition of penalties against tax preparers who fail to furnish copies of taxpayer returns, who fail to furnish an identifying number, as specified, or who fail to retain specified documents.

This bill would recast these provisions to instead require the council, after receiving notification from the board regarding a violation of the registration requirements, to notify the Attorney General, a district attorney, or a city attorney, who would be authorized by the bill to cite individuals for these violations, levy a fine of up to \$5,000 against the violator, or issue a cease and desist order against the violator until he or she has registered as required. This bill would also authorize the board to impose penalties against a tax preparer that fails to register with the council, but only after the board receives moneys for any costs incurred in the imposition of these penalties, as specified.

~~Existing law provides for the licensing and regulation of structural pest control operators by the Structural Pest Control Board, in the Department of Consumer Affairs. Existing law provides that the provisions creating the board become inoperative on July 1, 2006, and are repealed on January 1, 2007.~~

~~This bill would extend the dates on which the provisions creating the board become inoperative and are repealed to unspecified dates.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 8520 of the Business and Professions~~
- 2 ~~Code is amended to read:~~
- 3 ~~SECTION 1. Section 25 of the Business and Professions Code~~
- 4 ~~is amended to read:~~
- 5 25. Any person applying for a license, registration, or the first
- 6 renewal of a license, after the effective date of this section, as a

1 licensed marriage and family therapist, a licensed clinical social
2 worker or as a licensed psychologist shall, in addition to any
3 other requirements, show by evidence satisfactory to the agency
4 regulating the business or profession, that he or she has
5 completed training in human sexuality as a condition of
6 licensure. The training shall be creditable toward continuing
7 education requirements as deemed appropriate by the agency
8 regulating the business or profession, and the course shall not
9 exceed more than 50 contact hours.

10 The *Board of Psychology-Examining Committee* shall exempt
11 any persons whose field of practice is such that they are not
12 likely to have use for this training.

13 “Human sexuality” as used in this section means the study of a
14 human being as a sexual being and how he or she functions with
15 respect thereto.

16 The content and length of the training shall be determined by
17 the administrative agency regulating the business or profession
18 and the agency shall proceed immediately upon the effective date
19 of this section to determine what training, and the quality of staff
20 to provide the training, is available and shall report its
21 determination to the Legislature on or before July 1, 1977.

22 In the event that any licensing board or agency proposes to
23 establish a training program in human sexuality, the board or
24 agency shall first consult with other licensing boards or agencies
25 which have established or propose to establish a training program
26 in human sexuality to ensure that the programs are compatible in
27 scope and content.

28 *SEC. 2. Section 2909 of the Business and Professions Code is*
29 *amended to read:*

30 2909. Nothing in this chapter shall be construed as restricting
31 or preventing activities of a psychological nature or the use of the
32 official title of the position for which they were employed on the
33 part of the following persons, provided those persons are
34 performing those activities as part of the duties for which they
35 were employed, are performing those activities solely within the
36 confines of or under the jurisdiction of the organization in which
37 they are employed and do not offer to render or render
38 psychological services as defined in Section 2903 to the public
39 for a fee, monetary or otherwise, over and above the salary they

1 receive for the performance of their official duties with the
2 organization in which they are employed:

3 (a) Persons who hold a valid and current credential as a school
4 psychologist issued by the California Department of Education.

5 (b) Persons who hold a valid and current credential as a
6 psychometrist issued by the California Department of Education.

7 (c) Persons employed in positions as psychologists or
8 psychological assistants, or in a student counseling service, by
9 accredited or approved colleges, junior colleges or universities;
10 federal, state, county or municipal governmental organizations
11 which are not primarily involved in the provision of direct health
12 or mental health services. However, those persons may, without
13 obtaining a license under this act, consult or disseminate their
14 research findings and scientific information to other such
15 accredited or approved academic institutions or governmental
16 agencies. They may also offer lectures to the public for a fee,
17 monetary or otherwise, without being licensed under this chapter.

18 (d) Persons who meet the educational requirements of
19 subdivision (b) of Section 2914 and who have one year or more
20 of *the supervised* professional experience ~~of a type which the~~
21 ~~board determines will competently and safely permit the person~~
22 ~~to engage in the activities regulated by this chapter~~ *referenced in*
23 *subdivision (c) of Section 2914*, if they are employed by
24 nonprofit community agencies ~~which~~ *that* receive a minimum of
25 25 percent of their financial support from any federal, state,
26 county, or municipal governmental organizations for the purpose
27 of training and providing services. Those persons shall be
28 registered by the agency with the board at the time of
29 employment and *shall be identified in the setting as a "registered*
30 *psychologist."* Those persons shall be exempt from this chapter
31 for a maximum period of ~~two years~~ *30 months* from the date of
32 registration.

33 ~~(e) This section shall become operative January 1, 1984.~~

34 SEC. 3. *Section 2911 of the Business and Professions Code is*
35 *amended to read:*

36 2911. Nothing in this chapter shall be construed as restricting
37 the activities and services of a graduate student or psychological
38 intern in psychology pursuing a course of study leading to a
39 graduate degree in psychology at an accredited or approved
40 college or university and working in a training program, *or a*

1 *postdoctoral trainee working in a postdoctoral placement*
2 *overseen by the American Psychological Association (APA), the*
3 *Association of Psychology Postdoctoral and Internship Centers*
4 *(APPIC), or the California Psychology Internship Council*
5 *(CAPIC), provided that these activities and services constitute a*
6 *part of his or her supervised course of study and that ~~such~~ those*
7 *persons are designated by such title as “psychological intern,”*
8 *“psychological ~~trainee~~” trainee,” “post doctoral intern,” or other*
9 *~~such~~ title clearly indicating the training status appropriate to his*
10 *or her level of training. The ~~term “psychological intern,”~~*
11 *~~however,~~ aforementioned terms shall be reserved for persons*
12 *enrolled in the doctoral program ~~in psychology or social~~*
13 *~~psychology~~ leading to one of the degrees listed in subdivision (b)*
14 *of Section 2914 at an accredited or approved college or university*
15 *or in a formal post doctoral internship overseen by APA, APPIC,*
16 *or CAPIC.*

17 *SEC. 4. Section 2912 of the Business and Professions Code is*
18 *amended to read:*

19 2912. Nothing in this chapter shall be construed to restrict or
20 prevent a person who is licensed ~~or certified~~ as a psychologist *at*
21 *the doctoral level* in another state or territory of the United States
22 *or in a ~~foreign country~~ Canada* from offering psychological
23 services in this state for a period not to exceed 30 days in any
24 calendar year.

25 *SEC. 5. Section 2914 of the Business and Professions Code is*
26 *amended to read:*

27 2914. Each applicant for licensure shall comply with all of
28 the following requirements:

- 29 (a) Is not subject to denial of licensure under Division 1.5.
30 (b) Possess an earned doctorate degree (1) in psychology, (2)
31 ~~in education~~ *educational* psychology, or (3) in education with the
32 field of specialization in counseling psychology or educational
33 psychology. Except as provided in subdivision (g), this degree or
34 training shall be obtained from an accredited university, college,
35 or professional school. *The board shall make the final*
36 *determination as to whether a degree meets the requirements of*
37 *this section.*

38 No educational institution shall be denied recognition as an
39 accredited academic institution solely because its program is not
40 accredited by any professional organization of psychologists, and

1 nothing in this chapter or in the administration of this chapter
2 shall require the registration with the board by educational
3 institutions of their departments of psychology or their doctoral
4 programs in psychology.

5 An applicant for licensure trained in an educational institution
6 outside the United States or Canada shall demonstrate to the
7 satisfaction of the board that he or she possesses a doctorate
8 degree in psychology that is equivalent to a degree earned from a
9 regionally accredited university in the United States or Canada.
10 These applicants shall provide the board with a comprehensive
11 evaluation of the degree performed by a foreign credential
12 evaluation service that is a member of the National Association
13 of Credential Evaluation Services (NACES), and any other
14 documentation the board deems necessary.

15 (c) Have engaged for at least two years in supervised
16 professional experience under the direction of a licensed
17 psychologist, the specific requirements of which shall be defined
18 by the board in its regulations, or under suitable alternative
19 supervision as determined by the board in regulations duly
20 adopted under this chapter, at least one year of which shall be
21 after being awarded the doctorate in psychology. If the
22 supervising licensed psychologist fails to provide verification to
23 the board of the experience required by this subdivision within
24 30 days after being so requested by the applicant, the applicant
25 may provide written verification directly to the board.

26 If the applicant sends verification directly to the board, the
27 applicant shall file with the board a declaration of proof of
28 service, under penalty of perjury, of the request for verification.
29 A copy of the completed verification forms shall be provided to
30 the supervising psychologist and the applicant shall prove to the
31 board that a copy has been sent to the supervising psychologist
32 by filing a declaration of proof of service under penalty of
33 perjury, and shall file this declaration with the board when the
34 verification forms are submitted.

35 Upon receipt by the board of the applicant's verification and
36 declarations, a rebuttable presumption affecting the burden of
37 producing evidence is created that the supervised, professional
38 experience requirements of this subdivision have been satisfied.
39 The supervising psychologist shall have 20 days from the day the

1 board receives the verification and declaration to file a rebuttal
2 with the board.

3 The authority provided by this subdivision for an applicant to
4 file written verification directly shall apply only to an applicant
5 who has acquired the experience required by this subdivision in
6 the United States.

7 The board shall establish qualifications by regulation for
8 supervising psychologists and shall review and approve
9 applicants for this position on a case-by-case basis.

10 (d) Take and pass the examination required by Section 2941
11 unless otherwise exempted by the board under this chapter.

12 (e) Show by evidence satisfactory to the board that he or she
13 has completed training in the detection and treatment of alcohol
14 and other chemical substance dependency. This requirement
15 applies only to applicants who matriculate on or after September
16 1, 1985.

17 (f) (1) Show by evidence satisfactory to the board that he or
18 she has completed coursework in spousal or partner abuse
19 assessment, detection, and intervention. This requirement applies
20 to applicants who began graduate training during the period
21 commencing on January 1, 1995, and ending on December 31,
22 2003.

23 (2) An applicant who began graduate training on or after
24 January 1, 2004, shall show by evidence satisfactory to the board
25 that he or she has completed a minimum of 15 contact hours of
26 coursework in spousal or partner abuse assessment, detection,
27 and intervention strategies, including knowledge of community
28 resources, cultural factors, and same gender abuse dynamics. An
29 applicant may request an exemption from this requirement if he
30 or she intends to practice in an area that does not include the
31 direct provision of mental health services.

32 (3) Coursework required under this subdivision may be
33 satisfactory if taken either in fulfillment of other educational
34 requirements for licensure or in a separate course. This
35 requirement for coursework shall be satisfied by, and the board
36 shall accept in satisfaction of the requirement, a certification
37 from the chief academic officer of the educational institution
38 from which the applicant graduated that the required coursework
39 is included within the institution's required curriculum for
40 graduation.

(g) An applicant holding a doctoral degree in psychology from an approved institution is deemed to meet the requirements of this section if all of the following are true:

(1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999.

(2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94721 of the Education Code.

(3) The approved institution is not a franchise institution, as defined in Section 94729.3 of the Education Code.

SEC. 6. Section 2920 of the Business and Professions Code is amended to read:

2920. The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.

This section shall become inoperative on July 1, ~~2006~~ 2011, and, as of January 1, ~~2007~~ 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, ~~2007~~ 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the board shall employ and shall make available to the board within the limits of the funds received by the board all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The board shall make all expenditures to carry out this chapter. The board may accept contributions to effectuate the purposes of this chapter.

This section shall become inoperative on July 1, ~~2006~~ 2011, and, as of January 1, ~~2007~~ 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, ~~2007~~ 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 2936 of the Business and Professions Code is amended to read:

1 2936. The board shall adopt a program of consumer and
2 professional education in matters relevant to the ethical practice
3 of psychology. The board shall establish as its standards of
4 ethical conduct relating to the practice of psychology, the ~~code of~~
5 ~~ethics adopted and~~ “*Ethical Principles and Code of Conduct*”
6 published by the American Psychological Association (APA).
7 Those standards shall be applied by the board as the accepted
8 standard of care in all licensing examination development and in
9 all board enforcement policies and disciplinary case evaluations.

10 To facilitate consumers in receiving appropriate psychological
11 services, all licensees and registrants shall be required to post, in
12 a conspicuous location in their principal psychological business
13 office, a notice which reads as follows:

14 “NOTICE TO CONSUMERS: The Department of Consumer
15 Affairs’ Board of Psychology receives and responds to
16 questions and complaints regarding the practice of psychology.
17 If you have questions or complaints, you may contact the board
18 on the Internet at www.psychboard.ca.gov, by calling
19 1-866-503-3221, or by writing to the following address:

20 Board of Psychology
21 1422 Howe Avenue, Suite 22
22 Sacramento, California 95825-3236”

23 *SEC. 9. Section 2942 of the Business and Professions Code is*
24 *amended to read:*

25 2942. The board may examine by written or ~~oral~~
26 ~~computer-assisted~~ examination or by both. *All aspects of the*
27 *examination shall be in compliance with Section 139.* The
28 examination shall be ~~given~~ *available for administration* at least
29 twice a year at the time and place and under supervision as the
30 board may determine. The passing grades for the ~~written and oral~~
31 examinations shall be established by the board in regulations and
32 shall be based on psychometrically sound principles of
33 establishing minimum qualifications and levels of competency.

34 Examinations for a psychologist’s license may be conducted by
35 the board under a uniform examination system, and for that
36 purpose the board may make arrangements with organizations
37 furnishing examination material as may in its discretion be
38 desirable.

39 *SEC. 10. Section 2945 of the Business and Professions Code*
40 *is repealed.*

1 ~~2945. The board shall keep an accurate transcription or~~
2 ~~electronic recording of the oral examinations and keep a~~
3 ~~transcription or recording as a part of its records for at least one~~
4 ~~year following the date of examination.~~

5 *SEC. 11. Section 2946 of the Business and Professions Code*
6 *is amended to read:*

7 2946. The board shall grant a license to any person who
8 passes the ~~California Jurisprudence and Professional Ethics~~
9 ~~Examination board's supplemental licensing examination~~ and, at
10 the time of application, has been licensed for at least five years
11 by a psychology licensing authority in another state or Canadian
12 province if the requirements for obtaining a certificate or license
13 in that state or province were substantially equivalent to the
14 requirements of this chapter.

15 A psychologist certified or licensed in another state or province
16 and who has made application to the board for a license in this
17 state may perform activities and services of a psychological
18 nature without a valid license for a period not to exceed 180
19 calendar days from the time of submitting his or her application
20 or from the commencement of residency in this state, whichever
21 first occurs.

22 The board at its discretion may waive ~~those parts of the~~
23 ~~examination examinations, including either the whole of the~~
24 ~~written or the oral examinations~~, when in the judgment of the
25 board the applicant has already demonstrated competence in
26 areas covered by ~~those parts of the examination examinations~~.
27 The board at its discretion may waive the ~~examination~~
28 ~~examinations~~ for diplomates of the American Board of
29 Professional Psychology.

30 *SEC. 12. Section 2983 of the Business and Professions Code*
31 *is amended to read:*

32 2983. Every person to whom a license is issued ~~after~~
33 ~~December 31, 1968~~, shall, as a condition precedent to its
34 issuance, and in addition to any application, examination or other
35 fee, pay the prescribed initial license fee, ~~if any. The board, may,~~
36 ~~by regulation provide for the waiver or refund of the initial~~
37 ~~license fee, however, where the license is issued less than 45~~
38 ~~days before the date on which it will expire.~~

39 *SEC. 13. Section 2987 of the Business and Professions Code*
40 *is amended to read:*

1 2987. The amount of the fees prescribed by this chapter shall
2 be determined by the board, and shall be as follows:

3 (a) The application fee for a psychologist shall not be more
4 than fifty dollars (\$50).

5 (b) ~~Until July 1, 1993, the examination fee for a psychologist~~
6 ~~shall be not more than one hundred fifty dollars (\$150). Effective~~
7 ~~July 1, 1993, the~~ The examination and reexamination fees for the
8 ~~written and oral~~ examinations shall be the actual cost to the board
9 of developing, purchasing, and grading of each examination, plus
10 the actual cost to the board of administering each examination.

11 (c) The initial license fee is an amount equal to the renewal fee
12 in effect on the last regular renewal date before the date on which
13 the license is issued, ~~except that if the license will expire less~~
14 ~~than one year after its issuance, then the initial license fee is an~~
15 ~~amount equal to 50 percent of the renewal fee in effect on the last~~
16 ~~regular renewal date before the date on which the license is~~
17 ~~issued.~~

18 (d) The biennial renewal fee for a psychologist shall be four
19 hundred dollars (\$400) ~~for the renewal periods commencing on~~
20 ~~or after January 1, 1993.~~ The board may increase the renewal fee
21 to an amount not to exceed five hundred dollars (\$500).

22 (e) The application fee for registration and supervision of a
23 psychological assistant by a supervisor under Section 2913,
24 which is payable by that supervisor, shall not be more than
25 seventy-five dollars (\$75).

26 (f) The annual renewal fee for registration of a psychological
27 assistant shall not be more than seventy-five dollars (\$75).

28 (g) The duplicate license or registration fee is five dollars (\$5).

29 (h) The delinquency fee is twenty-five dollars (\$25).

30 (i) The endorsement fee is five dollars (\$5).

31 Notwithstanding any other provision of law, the board may
32 reduce any fee prescribed by this section, when, in its discretion,
33 the board deems it administratively appropriate.

34 *SEC. 14. Section 2988 of the Business and Professions Code*
35 *is amended to read:*

36 2988. A licensed psychologist who for reasons, including, but
37 not limited to, *retirement*, ill health, or absence from the state, is
38 not engaged in the practice of psychology, may apply to the
39 board to request that his or her license be placed on an inactive
40 status. A licensed psychologist who holds an inactive license

1 shall pay a biennial renewal fee, fixed by the board, of no more
2 than forty dollars (\$40). A psychologist holding an inactive
3 license shall be exempt from continuing education requirements
4 specified in Section 2915, but shall otherwise be subject to this
5 chapter and shall not engage in the practice of psychology in this
6 state. Licensees on inactive status who have not committed any
7 acts or crimes constituting grounds for denial of licensure and
8 have completed the continuing education requirements specified
9 in Section 2915 may, upon their request have their license to
10 practice psychology placed on active status.

11 *SEC. 15. Section 4990.1 of the Business and Professions*
12 *Code is amended to read:*

13 4990.1. There is in the Department of Consumer Affairs a
14 Board of Behavioral Sciences which consists of 11 members.

15 This section shall become inoperative on July 1, ~~2006~~ 2011,
16 and, as of January 1, ~~2007~~ 2012, is repealed, unless a later
17 enacted statute, which becomes effective on or before January 1,
18 ~~2007~~ 2012, deletes or extends the dates on which it becomes
19 inoperative and is repealed.

20 *SEC. 16. Section 4990.8 of the Business and Professions*
21 *Code is amended to read:*

22 4990.8. The executive officer shall exercise the powers and
23 perform the duties delegated by the board and vested in him or
24 her by this chapter.

25 This section shall become inoperative on July 1, ~~2006~~ 2011,
26 and, as of January 1, ~~2007~~ 2012, is repealed, unless a later
27 enacted statute, which becomes effective on or before January 1,
28 ~~2007~~ 2012, deletes or extends the dates on which it becomes
29 inoperative and is repealed.

30 *SEC. 17. Section 8000 of the Business and Professions Code*
31 *is amended to read:*

32 8000. There is in the Department of Consumer Affairs a
33 Court Reporters Board of California, which consists of five
34 members, three of whom shall be public members and two of
35 whom shall be holders of certificates issued under this chapter
36 who have been actively engaged as shorthand reporters within
37 this state for at least five years immediately preceding their
38 appointment.

39 This section shall become inoperative on July 1, ~~2006~~ 2011,
40 and, as of January 1, ~~2007~~ 2012, is repealed, unless a later

1 enacted statute, which becomes effective on or before January 1,
2 ~~2007 2012~~, deletes or extends the dates on which it becomes
3 inoperative and is repealed. ~~The repeal of this section renders the~~
4 ~~board subject to the review required by Division 1.2~~
5 ~~(commencing with Section 473), except that the review shall be~~
6 ~~limited to only those unresolved issues identified by the Joint~~
7 ~~Committee on Boards, Commissions, and Consumer Protection.~~

8 *SEC. 18. Section 8005 of the Business and Professions Code*
9 *is amended to read:*

10 8005. The Court Reporters Board of California is charged
11 with the executive functions necessary for effectuating the
12 purposes of this chapter. It may appoint committees as it deems
13 necessary or proper. The board may appoint, prescribe the duties,
14 and fix the salary of an executive officer. Except as provided by
15 Section 159.5, the board may also employ other employees as
16 may be necessary, subject to civil service and other provisions of
17 law.

18 This section shall become inoperative on July 1, ~~2006 2011~~,
19 and, as of January 1, ~~2007 2012~~, is repealed, unless a later
20 enacted statute, which becomes effective on or before January 1,
21 ~~2007 2012~~, deletes or extends the dates on which it becomes
22 inoperative and is repealed.

23 ~~The repeal of this section renders the board subject to the~~
24 ~~review required by Division 1.2 (commencing with Section 473),~~
25 ~~except that the review shall be limited to the board's examination~~
26 ~~program.~~

27 *SEC. 19. Section 8010 of the Business and Professions Code*
28 *is amended to read:*

29 8010. Information regarding a complaint against a specific
30 licensee may not be disclosed to the public until an accusation
31 has been filed by the board and the licensee has been notified of
32 the filing of the accusation against his or her license and the
33 disciplinary proceedings to be conducted in accordance with
34 Chapter 5 (commencing with Section 11500) of Part 1 of
35 Division 3 of Title 2 of the Government Code. This section does
36 not apply to citations, fines, *letters of reprimand*, or orders of
37 abatement, which shall be disclosed to the public upon notice to
38 the licensee.

39 *SEC. 20. Section 8025 of the Business and Professions Code*
40 *is amended to read:*

1 8025. A certificate issued under this chapter may be
2 suspended, revoked, denied, or other disciplinary action may be
3 imposed for one or more of the following causes:

4 (a) Conviction of any felony or any misdemeanor if the
5 misdemeanor is substantially related to the functions and duties
6 of a court reporter. The record of conviction, or a certified copy
7 thereof, is conclusive evidence of the conviction.

8 (b) Failure to notify the board of a conviction described in
9 subdivision (a), in accordance with Section 8024 or 8024.2.

10 (c) Fraud or misrepresentation resorted to in obtaining a
11 certificate hereunder.

12 (d) Fraud, dishonesty, corruption, willful violation of duty,
13 gross negligence or incompetence in practice, or unprofessional
14 conduct in *or directly related to* the practice of shorthand
15 reporting.

16 “Unprofessional conduct” includes, but is not limited to, acts
17 contrary to professional standards concerning confidentiality;
18 impartiality; filing and retention of notes; notifications,
19 availability, delivery, execution and certification of transcripts;
20 and any provision of law substantially related to the duties of a
21 certified shorthand reporter.

22 (e) Repeated unexcused failure, whether or not willful, to
23 transcribe notes of cases pending on appeal and to file the
24 transcripts of those notes within the time required by law or to
25 transcribe or file notes of other proceedings within the time
26 required by law or agreed to by contract. Violation of this
27 subdivision shall also be deemed an act endangering the public
28 health, safety, or welfare within the meaning of Section 494.

29 (f) Loss or destruction of stenographic notes, whether on paper
30 or electronic media, that prevents the production of a transcript
31 due to negligence of the licensee.

32 (g) Failure to comply with, or to pay a monetary sanction
33 imposed by, any court for failure to provide timely transcripts.
34 The record of the court order, or a certified copy thereof, is
35 conclusive evidence that the sanction was imposed.

36 (h) Failure to pay a civil penalty relating to the provision of
37 court reporting services or products.

38 (i) The revocation of, suspension of, or other disciplinary
39 action against a license to act as a certified shorthand reporter by
40 another state. A certified copy of the revocation, suspension, or

1 disciplinary action by the other state is conclusive evidence of
2 that action.

3 (j) Violation of this chapter or the statutes, rules, and
4 regulations pertaining to certified shorthand reporters.

5 *SEC. 21. Section 8030.4 of the Business and Professions*
6 *Code is amended to read:*

7 8030.4. As used in this chapter:

8 (a) “Qualified legal services project” means a nonprofit project
9 incorporated and operated exclusively in California that provides
10 as its primary purpose and function legal services without charge
11 to indigent persons, has a board of directors or advisory board
12 composed of both attorneys and consumers of legal services, and
13 provides for community participation in legal services
14 programming. Legal services projects funded either in whole or
15 in part by the Legal Services Corporation or with Older
16 Americans Act funds are presumed to be qualified legal services
17 projects for the purposes of this chapter.

18 (b) “Qualified support center” means an incorporated
19 nonprofit legal services center, having an office or offices in
20 California, which office or offices provide legal services or
21 technical assistance without charge to qualified legal services
22 projects and their clients on a multicounty basis in California.
23 Support centers funded either in whole or in part by the Legal
24 Services Corporation or with Older Americans Act funds are
25 presumed to be qualified legal services projects for the purposes
26 of this chapter.

27 (c) “Other qualified project” means a nonprofit organization
28 formed for charitable or other public purposes, not receiving
29 funds from the Legal Services Corporation or pursuant to the
30 Older Americans Act, which organization or association provides
31 free legal services to indigent persons.

32 (d) “Pro bono attorney” means any attorney, law firm, or legal
33 corporation, licensed to practice law in this state, which
34 undertakes without charge to the party the representation of an
35 indigent person, referred by a qualified legal services project,
36 qualified support center, or other qualified project, in a case not
37 considered to be fee generating as defined in this chapter.

38 (e) “Applicant” means a qualified legal services project,
39 qualified support center, other qualified project, or pro bono
40 attorney applying to receive funds from the Transcript

1 Reimbursement Fund established by this chapter. The term
2 “applicant” shall not include persons appearing pro se to
3 represent themselves at any stage of the case.

4 (f) “Indigent person” means either a person whose income is
5 125 percent or less of the current poverty threshold established
6 by the Office of Management and Budget of the United States, a
7 disabled person whose income after meeting medical and other
8 disability-related special expenses is 125 percent or less of that
9 current poverty threshold, or a person who receives or is eligible
10 to receive supplemental security income.

11 (g) “Fee-generating case” means any case or matter which, if
12 undertaken on behalf of an eligible client by an attorney in
13 private practice, reasonably may be expected to result in payment
14 of a fee for legal services from an award to a client, from public
15 funds, or from an opposing party. A reasonable expectation as to
16 payment of a legal fee exists wherever a client enters into a
17 contingent fee agreement with his or her lawyer. If there is no
18 contingent fee agreement, a case is not considered fee generating
19 if adequate representation is deemed to be unavailable because of
20 the occurrence of any of the following circumstances:

21 (1) Where the applicant has determined that referral is not
22 possible because of any of the following:

23 (A) The case has been rejected by the local lawyer referral
24 service, or if there is no such service, by two private attorneys
25 who have experience in the subject matter of the case.

26 (B) Neither the referral service nor any lawyer will consider
27 the case without payment of a consultation fee.

28 (C) The case is of the type that private attorneys in the area
29 ordinarily do not accept, or do not accept without prepayment of
30 a fee.

31 (D) Emergency circumstances compel immediate action
32 before referral can be made, but the client is advised that, if
33 appropriate and consistent with professional responsibility,
34 referral will be attempted at a later time.

35 (2) Where recovery of damages is not the principal object of
36 the case and a request for damages is merely ancillary to an
37 action for equitable or other nonpecuniary relief; or inclusion of
38 a counterclaim requesting damages is necessary for effective
39 defense or because of applicable rules governing joinder of
40 counterclaims.

(3) Where a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) “Supplemental security income recipient” means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) “Lawyer referral service” means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) “Older Americans Act” means the Older Americans Act of 1965, Public Law 89-73, as amended.

(l) “Rules of professional conduct” means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) “Certified shorthand reporter” means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) performing shorthand reporting services pursuant to Section 8017.

(n) “Case” means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 22. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund for the costs, exclusive of per diem charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual

1 obligation between the shorthand reporter and the applicant, for
2 litigation conducted in California. If no deposition transcript is
3 ordered, the board may reimburse the applicant or the certified
4 shorthand reporter designated in the application for per diem
5 costs. The rate of per diem for depositions shall not exceed
6 seventy-five dollars (\$75) for a half day, or one hundred
7 twenty-five dollars (\$125) for a full day. In the event that a
8 transcript is ordered within one year of the date of the deposition,
9 but subsequent to the per diem having been reimbursed by the
10 Transcript Reimbursement Fund, the amount of the per diem
11 shall be deducted from the amount of transcript. Reimbursement
12 may be obtained through the following procedures:

13 (a) The applicant or certified shorthand reporter shall promptly
14 submit to the board the certified shorthand reporter's invoice for
15 transcripts together with the appropriate documentation as is
16 required by this chapter.

17 (b) Except as provided in subdivision (c), the board shall
18 promptly determine if the applicant or the certified shorthand
19 reporter is entitled to reimbursement under this chapter and shall
20 make payment as follows:

21 (1) Regular customary charges for preparation of original
22 deposition transcripts and one copy thereof, or a copy of the
23 transcripts.

24 (2) Regular customary charges for expedited deposition
25 transcripts up to a maximum of two thousand five hundred
26 dollars (\$2,500) per case.

27 (3) Regular customary charges for the preparation of original
28 transcripts and one copy thereof, or a copy of transcripts of court
29 proceedings.

30 (4) Regular customary charges for expedited or daily charges
31 for preparation of original transcripts and one copy thereof or a
32 copy of transcripts of court proceedings.

33 (5) The charges may not include notary or handling fees. The
34 charges may include actual shipping costs and exhibits, except
35 that the cost of exhibits may not exceed thirty-five cents (\$0.35)
36 each or a total of thirty-five dollars (\$35) per transcript.

37 (c) The maximum amount reimbursable by the fund under
38 subdivision (b) may not exceed twenty thousand dollars
39 (\$20,000) per case per year.

(d) If entitled, and funds are available, the board shall forthwith disburse the appropriate sum to the applicant or the certified shorthand reporter when documentation as provided in subdivision (d) of Section 8030.8 accompanies the application. A notice shall be sent to the recipient requiring the recipient to file a notice with the court in which the action is pending stating the sum of reimbursement paid pursuant to this section. The notice filed with the court shall also state that if the sum is subsequently included in any award of costs made in the action, that the sum is to be ordered refunded by the applicant to the Transcript Reimbursement Fund whenever the sum is actually recovered as costs. The court may not consider whether payment has been made from the Transcript Reimbursement Fund in determining the appropriateness of any award of costs to the parties. The board shall also forthwith notify the applicant that the reimbursed sum has been paid to the certified shorthand reporter and shall likewise notify the applicant of the duty to refund any of the sum actually recovered as costs in the action.

(e) If not entitled, the board shall forthwith return a copy of the invoice to the applicant and the designated certified shorthand reporter together with a notice stating the grounds for denial.

(f) The board shall complete its actions under this subdivision within 30 days of receipt of the invoice and all required documentation, including a completed application.

(g) Applications for reimbursements from the fund shall be filled on a first-come basis.

(h) Applications for reimbursement that cannot be paid from the fund due to insufficiency of the fund for that fiscal year shall be held over until the next fiscal year to be paid out of the renewed fund.

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 23. Section 8030.8 of the Business and Professions Code is amended to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice is sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it is

1 filed with the executive officer on an application form prescribed
2 by the board that is complete in all respects, and that establishes
3 all of the following:

4 (1) The case name and number and that the litigant or litigants
5 requesting the reimbursement are indigent persons.

6 (2) The applicant is qualified under the provisions of this
7 chapter.

8 (3) The case is not a fee-generating case, as defined in Section
9 8030.4.

10 (4) The invoice or other documentation shall evidence that the
11 certified shorthand reporter to be reimbursed was, at the time the
12 services were rendered, a duly licensed certified shorthand
13 reporter.

14 (5) The invoice shall be accompanied by a statement, signed
15 by the applicant, stating that the charges are for transcripts
16 actually provided as indicated on the invoice.

17 (6) The applicant has acknowledged, in writing, that as a
18 condition of entitlement for reimbursement that the applicant
19 agrees to refund the entire amount disbursed from the Transcript
20 Reimbursement Fund from any costs or attorneys' fees awarded
21 to the applicant by the court or provided for in any settlement
22 agreement in the case.

23 (7) The certified shorthand reporter's invoice for transcripts
24 shall include separate itemizations of charges claimed, as
25 follows:

26 (A) Total charges and rates for customary services in
27 preparation of an original transcript and one copy or a copy of
28 the transcript of depositions.

29 (B) Total charges and rates for expedited deposition
30 transcripts.

31 (C) Total charges and rates in connection with transcription of
32 court proceedings.

33 (b) For an applicant claiming to be eligible pursuant to
34 subdivision (a), (b), or (c) of Section 8030.4, a letter from the
35 director of the project or center, certifying that the project or
36 center meets the standards set forth in one of those subdivisions
37 and that the litigant or litigants are indigent persons, is sufficient
38 documentation to establish eligibility.

39 (c) For an applicant claiming to be eligible pursuant to
40 subdivision (d) of Section 8030.4, a letter certifying that the

1 applicant meets the requirements of that subdivision, that the
2 case is not a fee-generating case, as defined in subdivision (g) of
3 Section 8030.4, and that the litigant or litigants are indigent
4 persons, together with a letter from the director of a project or
5 center defined in subdivision (a), (b), or (c) of Section 8030.4
6 certifying that the litigant or litigants had been referred by that
7 project or center to the applicant, is sufficient documentation to
8 establish eligibility.

9 (d) The applicant may receive reimbursement directly from the
10 board when the applicant has previously paid the certified
11 shorthand reporter for transcripts as provided in Section 8030.6.
12 To receive payment directly, the applicant shall submit, in
13 addition to all other required documentation, an itemized
14 statement signed by the certified shorthand reporter performing
15 the services that describes payment for transcripts in accordance
16 with the requirements of Section 8030.6.

17 (e) The board may prescribe appropriate forms to be used by
18 applicants and certified shorthand reporters to facilitate these
19 requirements.

20 (f) This chapter does not restrict the contractual obligation or
21 payment for services, including, but not limited to, billing the
22 applicant directly, during the pendency of the claim.

23 ~~This section shall become inoperative on July 1, 2006, and, as~~
24 ~~of January 1, 2007, is repealed, unless a later enacted statute, that~~
25 ~~becomes operative on or before January 1, 2007, deletes or~~
26 ~~extends the dates on which it becomes inoperative and is~~
27 ~~repealed.~~

28 *SEC. 24. Section 8520 of the Business and Professions Code*
29 *is amended to read:*

30 8520. (a) There is in the Department of Consumer Affairs a
31 Structural Pest Control Board, which consists of seven members.

32 (b) Subject to the jurisdiction conferred upon the director by
33 Division 1 (commencing with Section 100) of this code, the
34 board is vested with the power to and shall administer the
35 provisions of this chapter.

36 (c) It is the intent of the Legislature that consumer protection
37 is the primary mission of the board.

38 (d) This section shall become inoperative on July 1, ~~2006~~
39 ~~2011~~, and, as of January 1, ~~2007~~ 2012, is repealed, unless a later
40 enacted statute, which becomes effective on or before January 1,

1 ~~2007~~ 2012, deletes or extends the dates on which it becomes
2 inoperative and is repealed. The repeal of this section renders the
3 board subject to the review required by Division 1.2
4 (commencing with Section 473).

5 *SEC. 25. Section 8528 of the Business and Professions Code*
6 *is amended to read:*

7 8528. With the approval of the director, the board shall
8 appoint a registrar, fix his or her compensation and prescribe his
9 or her duties.

10 The registrar is the executive officer and secretary of the board.

11 This section shall become inoperative on July 1, ~~2006~~ 2011,
12 and, as of January 1, ~~2007~~ 2012, is repealed, unless a later
13 enacted statute, which becomes effective on or before January 1,
14 ~~2007~~ 2012, deletes or extends the dates on which it becomes
15 inoperative and is repealed.

16 *SEC. 26. Section 22253.2 of the Business and Professions*
17 *Code is amended to read:*

18 22253.2. (a) The Franchise Tax Board shall notify the
19 California Tax Education Council when it identifies an individual
20 who has violated paragraph (1) of subdivision (a) of Section
21 22253.

22 ~~(b) The Franchise Tax Board pursuant to an agreement with~~
23 ~~Upon receiving the notice described in subdivision (a), the~~
24 ~~California Tax Education Council, as authorized in subdivision~~
25 ~~(e), shall notify the Attorney General, a district attorney, or a city~~
26 ~~attorney of the violation. Upon receiving this notice, the Attorney~~
27 ~~General, a district attorney, or a city attorney may do any of the~~
28 ~~following:~~

29 (1) Cite individuals preparing tax returns in violation of
30 subdivision (a) of Section 22253.

31 (2) Levy a fine up to five thousand dollars (\$5,000) per
32 violation.

33 (3) Issue a cease and desist order, which shall remain in effect
34 until the individual has ~~come into compliance~~ *complied with the*
35 ~~provisions of~~ paragraph (1) of subdivision (a) of Section 22253.

36 (c) The California Tax Education Council may enter into an
37 agreement with the Franchise Tax Board to provide
38 reimbursement to the Franchise Tax Board for any expenses
39 incurred by the Franchise Tax Board to implement subdivision
40 (a) of this section.

~~(d) The Franchise Tax Board shall not incur any costs associated with any of the activities authorized by subdivision (b) until either one of the following has occurred:~~

~~(1) Commencing January 1, 2006, and continuing each year thereafter, there is an appropriation in the Franchise Tax Board's annual budget to fund the activities authorized by subdivision (b).~~

~~(2) (A) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that an amount equal to all first year costs necessary to implement and administer the activities authorized by subdivision (b) shall be received by the Franchise Tax Board. For purposes of this paragraph, first year costs include costs associated with, but not limited to, the development of processes or systems changes if necessary, and labor.~~

~~(B) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that the annual costs incurred by the Franchise Tax Board as a result of the activities authorized by subdivision (b) shall be reimbursed by the California Tax Education Council to the Franchise Tax Board.~~

~~(C) Pursuant to the agreement described in subparagraph (A), the Franchise Tax Board has received an amount equal to the first year costs.~~

SEC. 27. Section 19167 of the Revenue and Taxation Code is amended to read:

19167. A penalty shall be imposed under this section for any of the following:

(a) In accordance with Section 6695(a) of the Internal Revenue Code, for failure to furnish a copy of the return to the taxpayer, as required by Section 18625.

(b) In accordance with Section 6695(c) of the Internal Revenue Code, for failure to furnish an identifying number, as required by Section 18624.

(c) In accordance with Section 6695(d) of the Internal Revenue Code, for failure to retain a copy or list, as required by Section 18625 or for failure to retain an electronic filing declaration, as required by Section 18621.5.

(d) Failure to register as a tax preparer with the California Tax Education Council, as required by Section 22253 of the

Business and Professions Code, unless it is shown that the failure was due to reasonable cause and not due to willful neglect.

(1) The amount of the penalty under this subdivision for the first failure to register is two thousand five hundred dollars (\$2,500). This penalty shall be waived if proof of registration is provided to the Franchise Tax Board within 90 days from the date notice of the penalty is mailed to the tax preparer.

(2) The amount of the penalty under this subdivision for a failure to register, other than the first failure to register, is five thousand dollars (\$5,000).

(e) The Franchise Tax Board shall not impose the penalties authorized by subdivision (d) until either one of the following has occurred:

(1) Commencing January 1, 2006, and continuing each year thereafter, there is an appropriation in the Franchise Tax Board's annual budget act to fund the costs associated with the penalty authorized by subdivision (d).

(2) (A) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that an amount equal to all first year costs associated with the penalty authorized by subdivision (d) shall be received by the Franchise Tax Board. For purposes of this subparagraph, first year costs include, but are not limited to, costs associated with the development of processes or systems changes, if necessary, and labor.

(B) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that the annual costs incurred by the Franchise Tax Board associated with the penalty authorized by subdivision (d) shall be reimbursed by the California Tax Education Council to the Franchise Tax Board.

(C) Pursuant to the agreement described in subparagraph (A), the Franchise Tax Board has received an amount equal to the first year costs described in that subparagraph.

~~8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.~~

~~(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.~~

1 ~~(e) It is the intent of the Legislature that consumer protection~~
2 ~~is the primary mission of the board.~~
3 ~~(d) This section shall become inoperative on July 1, _____, and,~~
4 ~~as of January 1, _____, is repealed, unless a later enacted statute,~~
5 ~~which becomes effective on or before January 1, _____, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is~~
7 ~~repealed. The repeal of this section renders the board subject to~~
8 ~~the review required by Division 1.2 (commencing with Section~~
9 ~~473).~~

O